

SEWARD & KISSEL LLP

ONE BATTERY PARK PLAZA
NEW YORK, NEW YORK 10004

RITAM. GLAVIN
PARTNER
(212) 574-1309
glavin@sewkis.com

TELEPHONE: (212) 574-1200
FACSIMILE: (212) 480-8421
WWW.SEWKIS.COM

901 K STREET, NW
WASHINGTON, D.C. 20005
TELEPHONE: (202) 737-8833
FACSIMILE: (202) 737-5184

February 25, 2021

VIAECF

MEMO ENDORSED

Honorable Sidney H. Stein
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: United States v. Rakim Brown. 19 Cr. 513 (SHS)

Dear Judge Stein:

I represent Rakim Brown in the above-referenced matter and write to provide a status report and request a conference with the Court to adjourn the March 30, 2021 trial date. Mr. Brown has requested to be present for this conference.

At our last conference on February 8, 2021, I advised the Court that I would be in a position in the next few weeks to assess whether the defense could adequately prepare for the March 30 trial given our very limited access to Mr. Brown, as well as Mr. Brown's ability to review the discovery in this case. Because of the voluminous discovery recently produced by the Government that I need to review with Mr. Brown, coupled with my continuing limited access to Mr. Brown, the defense cannot adequately prepare for a March 30 trial.

Since the February 8 conference, the Government has made seven additional productions, including downloads from seven cellular telephones and two Facebook accounts. There are more than 40,000 PDF pages associated with those records, as well as hundreds of images. We understand that, in the near future, the Government will be producing downloads from two additional cellphones. Given the Government's expansion of the Count One conspiracy and alleged co-conspirators with Mr. Brown, I need to review those records with Mr. Brown and do follow-up investigation as needed. In addition, the Government has recently given notice of several experts it intends to call at trial, including a DNA expert, and I anticipate reviewing the Government's recently produced DNA work files with a defense expert. Moreover, upon reviewing the 3500 material for CW-1 produced last week,¹ the defense has identified information

¹ The Government produced this material to me on the condition that I not leave copies with Mr. Brown at the MDC. Thus, I must be present with Mr. Brown to review these materials.

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that we need to investigate because we believe it will lead to exculpatory evidence. All of this will take time and we need more than five weeks.

In terms of access to Mr. Brown, the single one-hour phone call each week that the Federal Defenders committed to provide us is inadequate for me to consult with Mr. Brown to the degree necessary to prepare for a trial five weeks away. While the MDC resumed in-person legal visiting last week, I am not comfortable going to the MDC at this time given the ongoing COVID-19 outbreak at that facility and my understanding regarding the conditions at the MDC.

With respect to Mr. Brown's access to the discovery and a computer, that has also been inadequate. Although the MDC promised on February 5 that Mr. Brown would have access to a computer for two hours each day, Mr. Brown was not given any computer access until two days ago-on February 23. When he was finally given access to a computer on February 23, the hard drive was not brought to him. Our understanding as of yesterday, February 24, is that the hard drive was brought to Mr. Brown while he was at the computer, but he could not access it because of an issue with a power cord. We continue to monitor this issue. In addition, there have been delays in Mr. Brown receiving both discovery and defense materials. While the Government sent the hard drive with discovery to the MDC on February 11, the MDC did not make it available to him until February 24. Indeed, materials we sent to Mr. Brown over the last two weeks were not delivered to him until this week.²

Accordingly, we request a conference with the Court to adjourn the trial date.

Respectfully submitted,

/s/Rita M. Glavin

Rita M. Glavin

cc: AUSAs Alexandra Rothman and Mathew Adams (via ECF)

For the reasons set forth above, defendant's request for an adjournment of the March 30 trial date is granted. The deadline for the Court to submit a request for a trial in the second quarter having already passed, the Court will submit this case for trial during the third quarter of 2021, i.e. July, August, or September. The Court will notify the parties as soon as the Court's Ad Hoc Committee on the Resumption of Jury Trials establishes the trial calendar at the U.S. Courthouse, 500 Pearl Street, New York, New York, for the third quarter of 2021.

Dated: New York, New York
February 26, 2021

SO ORDERED:



Sidney H. Stein, U.S.D.J.

I sent emails to legal counsel for the MDC on February 17 and 19 informing them that: (1) Mr. Brown had not been given any access to a computer, despite the MDC's promise of two hours of access each day; and (2) Mr. Brown had neither received the hard drive sent by the USAO the prior week, nor received legal materials we had sent to him in the prior week.